IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.1667 OF 2005

Sadashiv Tukaram Jangle. ...Petitioner.
Vs.
Chief Executive Officer, Thane
Zilla Parishad & Ors. ...Respondents.

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Mr.M. B. Shirsat with Mr. N. N. Patil for the Petitioner.
Mr. S. P. Thorat for Respondent No.1.
Mr. R. K. Mendadkar with Ms. Helen Koli-Mandlik for Respondent No.3.

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CORAM : A.P. SHAH AND
DR.D.Y.CHANDRACHUD, JJ.

June 16, 2005.

P.C.:

The Petitioner was employed as a Section Officer in the Zilla Parishad at Thane. He has impugned in these proceedings under Article 226 of the Constitution, an order dated 27th December 2004 passed by the Additional Commissioner, Konkan Division, confirming in appeal, an order of compulsory retirement, passed on 17th September 2003 by the Chief Executive Officer of the Zilla Parishad. The order of the Appellate Authority notes that a meeting of the Special Review Committee was convened on 8th July 2003 to consider the cases of clerks in Class III who had

attained the age of 50 or, as the case may be, 55 years. A decision was taken to order the compulsory retirement of the Petitioner. An affidavit in reply has been filed on behalf of the Third Respondent in these proceedings who was the Deputy Chief Executive Officer of the Zilla Parishad, Thane. It has been stated therein that some of the letters written by the Petitioner would reveal that he has been in the habit of openly abusing his superiors. Moreover, it has been stated that Annual Confidential Reports of the Petitioner for the years 1992-93, 1993-94, 1994-95, 1995-96, 1996-97, 1997-98, 1999-2000 and 2001-2002 were found to be adverse. The Petitioner was found to be a mischievous and quarrelsome officer.

A copy of the service record of the Petitioner has been produced before the Court. We note from the Annual Confidential Reports that the performance of the Petitioner has consistently been found to be unsatisfactory by the Reporting and Reviewing Officers over an extended period of time from 1992 right until the period immediately prior to the order of compulsory retirement. The Petitioner has been found not to maintain discipline and he has been found to be wanting in the discharge of duties. He was

rated as a quarrelsome employee who had vitiated the working environment in the office. We are also constrained to take serious note of the abusive and unparliamentary language used by the Petitioner in his letter dated 23rd December 2004 addressed to the Chief Executive Officer of the Zilla Parishad. We are satisfied that the order of compulsory retirement was passed in the public interest.

An order of compulsory retirement in the public interest is not an order which casts a stigma. The order, it is well settled, has to be passed on the formation of an opinion that it is in the public interest to retire a Government servant compulsorily. The scope for judicial review is limited and the High Court under Article 226 of the Constitution is not justified in examining the matter as an Appellate Authority. The interference of the Court would be limited to cases where the order (i) is passed malafide; (ii) is based on no evidence or (iii) is arbitrary, so that no reasonable person would have formed the requisite opinion on the given material. These principles are now settled in view of the decisions of the Supreme Court in **Baikuntha Nath Das v. Chief District Medical Officer, Baripada,** (1992) 2 SCC 299; **State of**

U.P. vs. Vijay Kumar Jain, (2002) 3 SCC 641 and **Naval Singh v. State of U.P.** (2003) 8 SCC 117. Having regard to the settled position in law, we are of the view that none of the grounds on which the interference of the Court in an order of compulsory retirement can be contemplated exist in the facts and circumstances of the case. There is in the circumstances, no merit in the petition which is accordingly dismissed.

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